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7 **UNITED STATES DISTRICT COURT**  
 8 **DISTRICT OF NEVADA**

9 **COMMODITY FUTURES TRADING**  
 10 **COMMISSION,**

Case No.

11 Plaintiff,

12 **2:19-cv-01697-KJD-DJA**

13 **DAVID GILBERT SAFFRON**  
 14 **a/k/a DAVID GILBERT and**  
**CIRCLE SOCIETY, CORP.,**

15 Defendants.

16 **Declaration of George H. Malas Pursuant to 28 U.S.C. § 1746**

17 I, George H. Malas, declare, pursuant to 28 U.S.C. § 1746, as follows:

18 **I. BACKGROUND**

19 1. I have personal knowledge of the following facts and, if called as a witness, could  
 20 and would testify competently thereto.

21 2. I have worked as a Futures Trading Investigator for the Commodity Futures  
 22 Trading Commission (“CFTC” or “Commission”) since September 2009. Prior to joining the  
 23 Commission, I held positions as a Compliance Officer and Branch Administrative Manager at  
 24 Deutsche Bank Securities Inc. and as a Compliance Examiner, Investigator and Regulatory  
 25 Analyst at the National Association of Securities Dealers (now known as “FINRA”). I have a  
 26

Bachelor of Science in Business Administration, with a Concentration in Finance, from Towson State University and a Master of Business Administration from Johns Hopkins University.

3. My responsibilities as a Futures Trading Investigator include the investigation of registered and unregistered commodity futures and options trading firms and individuals located throughout the United States, in order to ensure compliance with and enforcement of the Commodity Exchange Act (“CEA”) and the rules and regulations promulgated thereunder. I routinely analyze and review financial records, including but not limited to, trading account documents and bank statements.

4. I am the Futures Trading Investigator assigned to assist in the investigation of David Gilbert Saffron (“Saffron”) and Circle Society, Corp. (“Circle Society”).

## **II. RECORDS REVIEWED**

5. As part of the investigation of Saffron and Circle Society, I reviewed and analyzed the following documents, relevant certified copies of which are attached as Exhibits 1-27:<sup>1</sup>

a. Certification of Registration documents provided by the NFA regarding the registration history of Saffron and Circle Society, attached hereto as Exhibit 1, showing neither Defendant has ever been registered with the Commission in any capacity.<sup>2</sup>

b. Certification of corporate registration records provided by the Nevada Secretary of State concerning Circle Society, attached hereto as Exhibit 2

<sup>1</sup> These documents are voluminous and therefore not all are attached to this declaration, but rather are summarized herein with some exhibits only containing excerpt pages. All documents can be made available for review upon request. Personal identifying information, such as account numbers and Social Security numbers, have been redacted in accordance with Fed. R. Civ. P. 5.2 and Local Rule IA 6-1.

<sup>2</sup> Pursuant to Commission Regulation 3.2, 17 C.F.R. § 3.2, the Commission's registration functions are delegated to the National Futures Association.

c. Court records provided by the Superior Court of the State of California, County of Los Angeles, regarding two court cases against Saffron (Case Nos. BC708601 and BC723555), attached hereto as Exhibit 3.

d. Information and documents produced to the Commission by the Murrin Law Firm (“MLF”), attached hereto as Exhibit 4.

e. Information and documents produced to the Commission by Circle Society's registered agent and former attorney to Saffron, Preston Sterling Kerr ("Kerr"), attached hereto as Exhibit 5.<sup>3</sup>

f. Information and documents produced to the Commission by Saffron's former legal counsel, David L. Kagel ("Kagel"), attached hereto as Exhibit 6.

g. Account records produced to the Commission by various virtual currency exchanges including, but not limited to, account opening documents and monthly account statements for the following accounts.

<b>Account Name</b>	<b>Firm</b>	<b>Account No.</b>
David Saffron, Exhibit 7	Coinbase	-
David Saffron, Exhibit 8	Uphold	-
David Saffron, Exhibit 9	Gemini	****5697
David Saffron, Exhibit 10	KuCoin	-
Preston Kerr, Exhibit 11	Coinbase	-

h. Information and documents obtained during the course of this investigation

<sup>3</sup> Kerr is the listed registered agent for Circle Society in the company's corporate records filed with the state of Nevada and his firm, Law Offices of P. Sterling Kerr, previously represented Circle Society in one of the Los Angeles Superior Court cases (Case No. BC723555) noted above in paragraph 5c.

1 regarding the following bank account.

2 Account Name	3 Bank	4 Account No.
Susan Lee Scott	JPMC	****9059

5 i. A January 2018 video recording of Saffron's presentation to actual and  
 6 prospective participants.<sup>4</sup>

7 j. A January 2018 audio recording of a presentation given by Saffron to actual  
 8 and prospective participants.<sup>5</sup>

9 k. Documents obtained from Las Vegas, Nevada hotels and casinos including:  
 10 Aria Resort & Casino Holdings, LLC ("Aria"), MGM Grand Hotel, LLC ("MGM"), and The  
 11 Cosmopolitan of Las Vegas ("Cosmo").<sup>6</sup>

12 l. Information made available through, and documents obtained from, the  
 13 Facebook, and/or Instagram pages of Saffron.<sup>7</sup>

14 m. Information made available through, and documents obtained from, the  
 15 websites for Circle Society, [www.circlesociety.com](http://www.circlesociety.com), Omnicron Trust,  
 16 [www.theomicrontrust.com](http://www.theomicrontrust.com), and BinBot Pro,<sup>8</sup> [www.binbotpro.com](http://www.binbotpro.com), copies of which are attached  
 17 hereto as Exhibit 12.

18 n. Podcast recordings uploaded by Saffron via Buzzsprout

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22 <sup>4</sup> The video will be presented to the Court upon request.

23 <sup>5</sup> The audio will be presented to the Court upon request.

24 <sup>6</sup> Copies of these records will be presented to the Court upon request.

25 <sup>7</sup> Copies of these records will be presented to the Court upon request.

26 <sup>8</sup> BinBot Pro is a company that provides a robot for individuals to trade binary options.

([www.buzzsprout.com](http://www.buzzsprout.com)), a podcast hosting platform<sup>9</sup>.

o. Transcript of Participant 7's Testimony Under Oath, March 1, 2019, attached hereto as Exhibit 13.

p. Transcript of Kagel's Testimony Under Oath, February 28, 2019, attached hereto as Exhibit 14.

q. Transcript of Kerr's Testimony Under Oath, March 27, 2019, attached hereto as Exhibit 15.

r. Materials produced by Participant 1, including, but not limited to, cryptocurrency transaction data, screenshots from Circle Society's website, and communications with Saffron and/or Circle Society, attached hereto as Exhibit 16.

s. Materials produced by Participant 3, including, but not limited to, cryptocurrency transaction data, screenshots from Circle Society's website, and communications with Saffron and/or Circle Society attached hereto as Exhibit 17.

t. Materials produced by Participant 4, including, but not limited to, cryptocurrency transaction data, screenshots from Circle Society's website, and communications with Saffron and/or Circle Society attached hereto as Exhibit 18.

u. Materials produced by Participant 5, including, but not limited to, cryptocurrency transaction data, screenshots from Circle Society's website, and communications with Saffron and/or Circle Society attached hereto as Exhibit 19.

v. Materials produced by Participant 7, including, but not limited to, cryptocurrency transaction data, screenshots from Circle Society's website, and communications with Saffron and/or Circle Society attached hereto as Exhibit 20.

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<sup>9</sup> The podcast will be presented to the Court upon request.

w. Materials produced by Participant 8, including, but not limited to,  
cryptocurrency transaction data, screenshots from Circle Society's website, and communications  
with Saffron and/or Circle Society attached hereto as Exhibit 21.

x. Materials produced by Participant 13, including, but not limited to, cryptocurrency transaction data, screenshots from Circle Society's website, and communications with Saffron and/or Circle Society attached hereto as Exhibit 22.

y. Materials produced by Participant 14, including, but not limited to,  
cryptocurrency transaction data, screenshots from Circle Society’s website, and communications  
with Saffron and/or Circle Society attached hereto as Exhibit 23.

z. Declaration of Participant 5, attached hereto as Exhibit 24.

aa. Declaration of Participant 13, attached hereto as Exhibit 25.

bb. Declaration of Participant 14, attached hereto as Exhibit 26.

### **III. SUMMARY**

6. My analysis of the documents listed in Section II, above, revealed the following information:

a. **David Gilbert Saffron** is a citizen of Australia and sometimes uses the alias "David Gilbert." Saffron's last known residence is 3765 Pacific Street, Las Vegas, Nevada 89121; however, it is believed that Saffron is currently commuting between residences he rents in Las Vegas and Los Angeles, California. Saffron has never been registered with the Commission in any capacity. *See* Certified Registration documents provided by the NFA, a copy of which is found at Exhibit 1 (SDKD-NFA-0000000002\_0006-7; SDKD-NFA-0000000002 0016-17).

b. **Circle Society, Corp.** is a Nevada corporation based in Henderson, Nevada.

1 Circle Society was incorporated by Saffron on September 6, 2018, with a purported office at  
 2 2450 St. Rose Parkway, Suite 120, Henderson, Nevada 89074. Saffron is listed as the only  
 3 officer of the company and Kerr is listed as the registered agent for Circle Society. *See* Certified  
 4 corporate registration records provided by the Nevada Secretary of State, a copy of which is  
 5 found at Exhibit 2 (SDKD-NSS-0000000001). Circle Society has never been registered with the  
 6 CFTC in any capacity. *See* Certified Registration documents provided by the NFA, a copy of  
 7 which is found at Exhibit 1 (SDKD-NFA-0000000002\_0004).

8                   c. From at least December 2017 to present (the “relevant period”), Saffron,  
 9 individually and on behalf of Circle Society, operated a Bitcoin (“BTC”) Ponzi scheme through  
 10 various business entities and cryptocurrency-related investment programs, including “Omnicon  
 11 Trust” (or alternatively, “Omicron Trust”), “Bitcoin Wealth Management,” “Custom Bot Trade  
 12 Agreement,” and Circle Society.

13                   d. During the relevant period, Saffron solicited and accepted at least \$11 million  
 14 worth of BTC and United States Dollars (“USD”), collectively (“funds”) from at least 14  
 15 individuals (“participants”), for the purpose of participating in a commodity pool that  
 16 purportedly utilized algorithmic trading programs, referred to by Saffron as “trading bots” and/  
 17 or “automated bot/AI trading software,” that he allegedly created to trade binary options  
 18 contracts on foreign currency (“forex”) and cryptocurrency pairs, among other things.

19                   e. Moreover, since I began working on this investigation the Commission has  
 20 obtained information and records that has revealed at least 25 additional participants who  
 21 provided at least \$409,000 worth of funds to Saffron for the purpose of trading binary options  
 22 contracts on forex and cryptocurrency pairs.

23                   f. Saffron solicited actual and prospective participants through in-person meetings,

1 instant messaging services such as Telegram, podcasts, and by use of his various websites  
2 [www.theomicrontrust.com](http://www.theomicrontrust.com) and <https://circlesociety.com>.

3 g. Further, Saffron utilized these solicitation methods to attract participants by  
4 making fraudulent misrepresentations including, but not limited to, the following:

- 5 i. Saffron had 57 separate computers that he purportedly utilized to continually  
6 run his trading bots. *See* CFTC Transcript of Participant 7's Testimony Under  
7 Oath, March 1, 2019, at p. 132, lines 15-24, a copy of which is attached hereto  
8 as Exhibit 13;
- 9 ii. Saffron maintained a "personal portfolio" of more than \$717 million, and  
10 allegedly had a "company portfolio" of more than \$2 billion;
- 11 iii. Saffron guaranteed returns of up to 300% in three weeks for some investors;  
12 at other times he promised to double participants' investment within one  
13 month;
- 14 iv. Saffron was a "master cryptocurrency trader who uses bots and automated  
15 trading/algorithms to generate tremendous returns for clients, including  
16 promising a 100% return on monies invested." *See* Court records provided by  
17 the Superior Court of the State of California, County of Los Angeles  
18 regarding Case No. BC723555, a copy of which is found at Exhibit 3 (SDKD-  
19 LASC-0000000001\_0065);
- 20 v. Referral fees would be paid to participants in the amount of one Bitcoin for  
21 every Bitcoin and/or equal to twenty percent (20%) of the assets invested by  
22 their friends and acquaintances. *See* Court records provided by the Superior  
23 Court of the State of California, County of Los Angeles regarding Case No.  
24  
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26  
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1 BC723555, a copy of which is found at Exhibit 3 (SDKD-LASC-

2 0000000001\_0066; SDKD-LASC-0000000001\_0078 );

- 3 vi. Circle Society has approximately 600-800 participants. *See Declaration of*  
4 *Participant 14, a copy of which is found at Exhibit 26 (SDKD-Welker-*  
5 *0000001625\_0003);*
- 6 vii. Saffron has pooled more than \$100 million worth of BTC. *See Declaration of*  
7 *Participant 14, a copy of which is found at Exhibit 26 (SDKD-Welker-*  
8 *0000001625\_0003);*
- 9 viii. Saffron trades cryptocurrency on 16 different exchanges including, but not  
10 limited to, KuCoin, Coinbase, and Kraken. *See Declaration of Participant 14,*  
11 *a copy of which is found at Exhibit 26 (SDKD-Welker-0000001625\_0003);*  
12 and  
13 ix. Well-known investors such as Mark Cuban were participants in Saffron's  
14 cryptocurrency programs. *See Transcript of Participant 7's Testimony under*  
15 *Oath, March 1, 2019, at p. 28, lines 5-10; p. 80, lines 12-16, a copy of which*  
16 *is found at Exhibit 13.*

17 h. Saffron enticed participants to invest with him by either having them: a)  
18 transfer BTC from their personal BTC address to a BTC address controlled by Saffron and/or  
19 Circle Society, or b) provide Saffron with USD in the form of cash.

20 i. Once participants transferred their funds to Saffron, he would then allegedly pool  
21 their funds and utilize the trading bots he purportedly developed to trade binary options contracts  
22 on forex and cryptocurrency pairs on the participants' behalf.

23 j. Contrary to Saffron's representations, he did not conduct trading on behalf of

1 participants as promised and instead misappropriated all of the participants' funds including, but  
2 not limited to, holding funds he received from participants in various virtual currency addresses  
3 that he controlled and using those funds to pay other participants in the manner of a Ponzi  
4 scheme.

5 k. During the relevant period, participants made and continue to make repeated  
6 demands on Saffron for the return of their funds; however, the majority of the participants have  
7 been unable to obtain a return of any of their funds.  
8

9 l. Moreover, Saffron made and continues to make various false representations to  
10 participants as to why he is unable to return their funds as he had promised including, but not  
11 limited to, the following:

- 12 i. At the end of March 2019, there was a "solar flare" for two days that  
13 interrupted all of his electronic computer equipment. *See* Materials  
14 produced by Participant 14, a copy of which is found at Exhibit 23  
15 (SDKD-Welker-0000001018), and Declaration of Participant 13, a copy of  
16 which is found at Exhibit 25 (SDKD-Marshalls-0000000004\_0004);  
17  
18 ii. There are too many BTC transactions in Circle Society's daily investment  
19 plans which "jammed" up computer servers. *See* Declaration of  
20 Participant 14, a copy of which is found at Exhibit 26 (SDKD-Welker-  
21 0000001625\_0002), and Declaration of Participant 13, a copy of which is  
22 found at Exhibit 25 (SDKD-Marshalls-0000000004\_0004);  
23  
24 iii. "Russian Hackers" attempted to attack the Circle Society website and all  
25 payments to investors stopped while securing the website. *See*

1 Declaration of Participant 13, a copy of which is found at Exhibit 25  
2

3 (SDKD-Marshalls-000000004\_0005); and  
4

5 iv. Withdrawal delays at various virtual currency exchanges.  
6

7 m. Most recently, Saffron has promised to pay participants after he obtains a  
8 “balloon payment” from KuCoin, a cryptocurrency exchange based in Singapore. For example,  
9 Saffron claims in Circle Society podcasts, referenced above in paragraph 5n, that participants’  
10 BTC are “spread out amongst seventeen different exchanges,” but KuCoin is the main exchange  
11 that “has been holding our coin for a long time.” Saffron also claims in these podcasts that it is  
12 difficult to get BTC released from KuCoin: “If we remove the amount of coin that we have in  
13 there . . . their site [KuCoin] would collapse,” and “different positions on the market would  
14 collapse.”

15 n. Contrary to Saffron’s claim noted above, his KuCoin account as of August 1,  
16 2019, had a balance of 0.0065 Electroneum (“ETN”), another form of virtual currency, which as  
17 of August 30, 2019 was actually worth \$0.00 USD based on ETN’s closing price of 0.003584.  
18 See KuCoin virtual currency account records, copies of which are found at Exhibit 10 (SDKD-  
19 KuCoin-000000005\_0014).

20 o. In fact, Saffron has recently made the following false representations to  
participants in response to their concerns of his alleged “balloon payment” claim:  
21

22 i. He has had “6 interviews with government officers,” and “So far and they  
23 seem to be satisfied with the evidence of exchanges holding funds.” See  
24 Materials produced by Saffron Participant, a copy of which is found at  
25 Exhibit 27 (SDKD-Harrison-000000002); and  
26  
27  
28

1                   ii. “George Malik [sic] at CFTC has it,” “And FBI has it as of last week,”  
 2                   “They both seem to be satisfied,” “Since I’m still here and not arrested,”,  
 3                   and “So again the stuff is being held.” *See Materials produced by Saffron*  
 4                   Participant, a copy of which is found at Exhibit 27 (SDKD-Harrison-  
 5                   0000000003).

6                   p. Moreover, Saffron has also recently offered a new investment plan to participants’  
 7                   through Telegram called the “**Coin Funding Trading Commune**” or “The **CFTC** plan”, which  
 8                   appears to offer a 100% return in “18 business days.” *See Materials produced by Participant 14,*  
 9                   a copy of which is found at Exhibit 23 (SDKD-Welker-0000001627).

10                  q. During the relevant period, Saffron did not maintain any futures trading accounts  
 11                  in his name or in the name of any entity that he managed, controlled, handled, or owned.

12                  r. During the relevant period, Saffron was affiliated with at least one personal bank  
 13                  account held at JPMorgan Chase Bank (“JPMC”). *See Saffron’s Gemini virtual currency*  
 14                  account records, copies of which are found at Exhibit 9 (SDKD-Gemini-000000007-8).

15                  s. During the relevant period, Saffron maintained a total of four virtual currency  
 16                  accounts at Coinbase, Inc. (“Coinbase”), Uphold, Inc. (“Uphold”), KuCoin, and Gemini Trust  
 17                  Company, LLC (“Gemini”). *See Coinbase, Uphold, KuCoin, and Gemini virtual currency*  
 18                  account documents, copies of which are found at Exhibits 7-10.

21                   IV. **ANALYSIS**

22                   **Commission Registration**

23                  7. Certifications produced by the NFA regarding the registration history of Saffron  
 24                  and Circle Society with the Commission show that neither Saffron nor Circle Society is  
 25                  registered with the Commission in any capacity or a member of the NFA, and that they were not  
 26                  registered with the Commission in any capacity or a member of the NFA, and that they were not  
 27  
 28

1 registered at any time relevant to the above-captioned matter. See Certified Registration  
2 documents provided by the NFA, copies of which are found at Exhibit 1 (SDKD-NFA-  
3 000000002-0004-7; SDKD-NFA-0000000002-0016-17).

4 | **Futures Trading Accounts**

5       8.     As part of my duties as the investigator assigned to this matter, in July 2019, I  
6 sent a request for documents pursuant to Section 4g of the Commodity Exchange Act to all firms  
7 registered with the Commission as Futures Commission Merchants (“FCMs”), requesting  
8 information relating to accounts in the name of or controlled by Saffron and/or Circle Society,  
9 since January 2013. I received replies from all registered FCMs, which revealed there were no  
10 accounts identified in the name of Saffron or Circle Society during the relevant period.  
11

12 | Virtual Currency Accounts

13       9.      The Commission sent subpoenas to virtual currency exchanges Coinbase, Gemini,  
14 and Uphold and a voluntary request to virtual currency exchange KuCoin to ascertain whether  
15 there were any virtual currency accounts maintained, managed, controlled, handled, serviced by,  
16 owned or in any way affiliated with Saffron, and/or Circle Society.  
17

18        10. I received replies from all virtual currency exchanges noted above and determined  
19 that Saffron maintained a total of four virtual currency accounts in his name during the relevant  
20 period. See Coinbase, Uphold, Gemini, and KuCoin account documents, copies of which are  
21 found at Exhibits 7-10

Coinbase

24           11. The Commission received documents from Coinbase for one virtual currency  
25 account in the name of Saffron.

26 12. Based upon my review of the Coinbase account documents for Saffron's account

1 I determined that:

- 2       a. The account was never funded; and
- 3       b. No transactions occurred in the account during the relevant period. *See Coinbase*  
4 account documents, a copy of which is found at Exhibit 7.

5       **Uphold**

6       13. The Commission received documents from Uphold for one virtual currency  
7 account in the name of Saffron.

8       14. Based upon my review of the Uphold account documents for Saffron's account, I  
9 determined that:

- 10       a. The account was opened on or about April 20, 2018.
- 11       b. During the relevant period, there were only two transactions executed in the  
12 account. On April 21, 2018, 0.01131 BTC (worth approximately \$100.00<sup>10</sup> at the time) was  
13 deposited in the account and immediately withdrawn on the same day.
- 14       c. As of August 13, 2019, the account is still open. *See Uphold account documents,*  
15 a copy of which is found at Exhibit 8.

16       **Gemini**

17       15. The Commission received documents from Gemini for one virtual currency  
18 account in the name of Saffron, account ID \*\*\*\*5697.

19       16. Based upon my review of the Gemini account documents for account ID  
20 \*\*\*\*5697, I determined that:

- 21       a. The account was opened on or around August 28, 2017, and closed on February  
22 19, 2019.

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23       <sup>10</sup> This amount was derived by taking the average of the high & low price of BTC on 4/21/2018 (8,824.86)  
24 multiplied by 0.01131 BTC [8,824.86 \* 0.01131 = \$99.81].

- 1           b. Saffron listed a bank account held at JPMC in the name of Susan L. Scott  
2 ("Scott") in the "Bank" section of the account opening documents.  
3           c. The account was never funded; and  
4           d. No transactions occurred in the account during the relevant period. *See* Gemini  
5 account documents, a copy of which is found at Exhibit 9.

6           **KuCoin**

7           17. The Commission received documents from KuCoin for one virtual currency  
8 account in the name of Saffron.

9           18. Based upon my review of the KuCoin account documents for Saffron's account, I  
10 determined that:

11           a. The account was opened on or about April 26, 2018; however, Saffron refused,  
12 neglected or otherwise failed to complete KuCoin's Know Your Customer ("KYC") procedure  
13 pursuant to the exchange's KYC and Anti-Money Laundering ("AML") policies. As such,  
14 KuCoin set a withdrawal limitation for Saffron's account whereby he is/was unable to withdraw  
15 any digital asset where the value exceeds two (2) BTC in each calendar day. *See* KuCoin  
16 account documents, a copy of which is found at Exhibit 10 (SDKD-KuCoin-0000000004\_0003).

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1                   b. During the relevant period, virtual currencies worth approximately \$26,678.70  
 2 USD were deposited into the account calculated as follows:

Date	Virtual Currency	Amount	USD Equivalent
4/26/2018	DigiByte (“DGB”) <sup>11</sup>	200,000	\$7,384.40 <sup>12</sup>
4/26/2018	TenX (“PAY”) <sup>13</sup>	7,000	\$10,290.00 <sup>14</sup>
4/26/2018	BTC	1	\$9,004.30 <sup>15</sup>
		<b>TOTAL</b>	<b>\$26,678.70</b>

11                  c. During the relevant period, virtual currencies worth approximately \$25,054.62  
 12 USD were withdrawn from the account calculated as follows:

16                  <sup>11</sup> According to [www.coinmarketcap.com](http://www.coinmarketcap.com), DGB is a “global blockchain focused on cybersecurity for digital  
 17 payments since 2014. DGB are digital assets that are mined through a combination of cryptographic algorithms  
 18 with the intent to minimize mining centralization and maximize difficulty stability while reaching consensus at  
 speeds as fast as 15-second block timings.

19                  <sup>12</sup> This amount was derived by taking the average of the high & low price of DGB on 4/26/2018 (0.0369)  
 20 multiplied by 200,000 DGB [0.0369 \* 200,000 = \$7,384.40].

21                  <sup>13</sup> According to [www.coinmarketcap.com](http://www.coinmarketcap.com), PAY is a payments platform that aims to enable users to use  
 22 cryptocurrency for daily transactions. The PAY token is the cryptocurrency that the network uses for  
 23 transactions. PAY offers a crypto card in selected countries, which will work in tandem with the PAY wallet to  
 channel supported cryptocurrencies through the Visa payment gateway. To enable everyday purchases, the  
 network performs token swaps from the chosen cryptoasset into the relevant fiat currency.

24                  <sup>14</sup> This amount was derived by taking the average of the high & low price of PAY on 4/26/2018 (1.47) multiplied  
 25 by 7,000 PAY [1.47 \* 7,000 = \$10,290.00].

26                  <sup>15</sup> This amount was derived by taking the average of the high & low price of BTC on 4/26/2018 (9,004.30)  
 27 multiplied by 1 BTC [9,004.30 \* 1 = \$9,004.30].

Date	Virtual Currency	Amount	USD Equivalent
4/26/2018	BTC	1.099	\$7,664.22 <sup>16</sup>
5/1/2018	BTC	0.826	\$9,895.73 <sup>17</sup>
5/23/2018	BTC	0.985	\$7,494.68 <sup>18</sup>
		<b>TOTAL</b>	<b>\$25,054.62</b>

d. Saffron last logged into his KuCoin account on December 3, 2018, and the current balance in the account as of August 1, 2019, was 0.0065 Electroneum ("ETN")<sup>19</sup>, which as of August 30, 2019 was worth \$0.00 USD based on ETN's closing price of 0.003584. *See* KuCoin account documents, a copy of which is found at Exhibit 10 (SDKD-KuCoin-0000000005).

### **Bank Accounts**

19. The Commission obtained information during the course of its investigation that revealed one bank account held at JPMC that Saffron is affiliated with.

#### **JPMC \*\*\*\*9059**

20. Based upon my review of the information for account number \*\*\*\*9059, I determined that:

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<sup>16</sup> This amount was derived by taking the average of the high & low price of BTC on 4/26/2018 (9,004.30) multiplied by 1.099 BTC [9,004.30 \* 1.099 = \$9,895.73].

<sup>17</sup> This amount was derived by taking the average of the high & low price of BTC on 5/1/2018 (7,494.68) multiplied by 0.826 BTC [7,494.68 \* 0.826 = \$7,494.68].

<sup>18</sup> This amount was derived by taking the average of the high & low price of BTC on 5/23/2018 (7,664.22) multiplied by 1 BTC [9,004.30 \* 1 = \$9,004.30].

<sup>19</sup> According to [www.coinmarketcap.com](http://www.coinmarketcap.com), ETN is a cryptocurrency that launched in 2017 with its own blockchain developed with the explicit intention of gaining mass adoption by targeting mobile audiences and smart phone users.

1                   a. Saffron listed JPMC bank account \*\*\*\*9059 in the name of Scott in the banking  
 2 section of the account opening documents for his Gemini virtual currency account. *See Exhibit 9*  
 3 (SDKD-Gemini-0000000007-8).

4 **SOLICITATION OF PARTICIPANTS**

5                 21. Based upon my review of Court records for the Superior Court of the State of  
 6 California, County of Los Angeles, I determined the following.

7                 **Bitcoin Wealth Management Program (“BWM”)**

8                 22. In late 2017, two participants (“Participant 9” and “Participant 10”) were  
 9 introduced to Saffron by one of his recruiters (“Recruiter 1”) and met with him at a private  
 10 medical office in Los Angeles, California. During this meeting, Saffron solicited Participants 9  
 11 & 10 to invest in an alleged “high-yield, low-risk cryptocurrency investment program” called the  
 12 Bitcoin Wealth Management Program. *See Superior Court of the State of California, County of*  
 13 *Los Angeles records for Case No. BC708601, a copy of which is found at Exhibit 3 (SDKD-*  
 14 *LACSC-0000000002\_0006).* Moreover, Saffron made the following additional representations:

15                 a. Participants would provide Saffron cryptocurrency and/or fiat currency and  
 16 Saffron would double their investment within one month. *See Superior Court of the State of*  
 17 *California, County of Los Angeles records for Case No. BC708601, a copy of which is found at*  
 18 *Exhibit 3 (SDKD-LACSC-0000000002\_0006);*

19                 b. The BWM program would provide participants very high yields with little to no  
 20 Risk. *See Superior Court of the State of California, County of Los Angeles records for Case No.*  
 21 *BC708601, a copy of which is found at Exhibit 3 (SDKD-LACSC-0000000002\_0006);*

22                 c. Saffron was an “experienced investor who had unique insight into cryptocurrency  
 23 markets that allowed him to produce huge returns on investments.” *See Superior Court of the*  
 24

1 State of California, County of Los Angeles records for Case No. BC708601, a copy of which is  
2 found at Exhibit 3 (SDKD-LACSC-0000000002\_0006); and

3 d. Saffron had deposited approximately 1,290 BTC (worth approximately \$19.3  
4 million at the time<sup>20</sup>) in a secure cryptocurrency wallet and “the assets held in that wallet could  
5 serve as collateral to ensure that investors’ funds were not dissipated without the investors  
6 receiving a return on their investments.” *See Superior Court of the State of California, County of*  
7 *Los Angeles records for Case No. BC708601, a copy of which is found at Exhibit 3 (SDKD-*  
8 *LACSC-0000000002\_0007).*

9  
10 23. During the initial meeting with Saffron noted above in paragraph 22 and  
11 subsequent communications, Recruiter 1 made the following additional representations  
12 concerning Saffron and his BWM program:

13 a. Participants “were guaranteed to receive the promoted return on their  
14 Investments.” *See Superior Court of the State of California, County of Los Angeles records for*  
15 *Case No. BC708601, a copy of which is found at Exhibit 3 (SDKD-CFTC-0000000001\_0007);*

16 b. The BWM program was “fail-proof.” *See Superior Court of the State of*  
17 *California, County of Los Angeles records for Case No. BC708601, a copy of which is found at*  
18 *Exhibit 3 (SDKD-CFTC-0000000001\_0007); and*

19 c. Saffron “is a genius investor who has earned millions of dollars using his  
20 investment strategies.” *See Superior Court of the State of California, County of Los Angeles*  
21 *records for Case No. BC708601, a copy of which is found at Exhibit 3 (SDKD-CFTC-*  
22 *0000000001\_0007).*

23  
24  
25  
26 <sup>20</sup> This amount was derived by taking the average value of BTC in early January 2018 (15,000) multiplied by  
27 1,290 BTC [15,000 \* 1,290 = \$19,350,000.00].  
28

1       24. Based on the representations noted above in paragraphs 22 & 23, Participants 9 &  
 2       10 invested a total of \$200,000 in Saffron's BWM program as they each provided him with  
 3       \$100,000 in cash on about January 22, 2018, and entered into an agreement with Saffron  
 4       whereby he promised to return \$200,000 to each participant on or about February 22, 2018. *See*  
 5       Superior Court of the State of California, County of Los Angeles records for Case No.  
 6       BC708601, a copy of which is found at Exhibit 3 (SDKD-LACSC-0000000002\_0006-7; SDKD-  
 7       LACSC-0000000002\_0011-13);  
 8

9       25. Between January 22, 2018, and August 2018, Participants 9 & 10 made repeated  
 10      demands on Saffron for the return of their funds; however, they were unable to obtain any of  
 11      their funds.

12       26. On or about August 11, 2018, Participants 9 & 10 entered into a written  
 13      agreement (the "August 2018 Settlement Agreement") with Saffron whereby Saffron agreed to  
 14      pay a total of \$175,000 to Participants 9 & 10 on or before August 13, 2018. Contrary to the  
 15      August 2018 Settlement Agreement, Participants 9 & 10 received no payment from Saffron and  
 16      have yet to receive any return of their funds from Saffron. *See* Superior Court of the State of  
 17      California, County of Los Angeles records for Case No. BC708601, a copy of which is found at  
 18      Exhibit 3 (SDKD-LACSC-0000000002\_0052-60).

20       **Custom Bot Trade Agreement ("CBTA")**

21       27. Sometime in April or May 2018, another recruiter ("Recruiter 2") for Saffron  
 22      contacted a participant ("Participant 11") via telephone and made the following representations:  
 23

24       a. Saffron was a master crypto trader and was offering an investment opportunity  
 25      through the deposit of BTC. *See* Superior Court of the State of California, County of Los  
 26      Angeles records for Case No. BC723555, a copy of which is found at Exhibit 3 (SDKD-LACSC-  
 27

1 0000000001\_0065); and

2 b. Recruiter 2 invested 11 BTC with Saffron and had received a return on his  
3 investment from Saffron. *See* Superior Court of the State of California, County of Los Angeles  
4 records for Case No. BC723555, a copy of which is found at Exhibit 3 (SDKD-LACSC-  
5 0000000001\_0065-66).

6 28. Several weeks after Participant 11 spoke with Recruiter 2, Saffron contacted  
7 Participant 11 directly via telephone and text and made the following representations:

8 a. Saffron had an algorithm and “bot” that traded cryptocurrency in a profitable  
9 manner. *See* Superior Court of the State of California, County of Los Angeles records for Case  
10 No. BC723555, a copy of which is found at Exhibit 3 (SDKD-LACSC-0000000001\_0066); and

11 b. Saffron provided participants a 100% return on any funds invested with him. *See*  
12 Superior Court of the State of California, County of Los Angeles records for Case No.  
13 BC723555, a copy of which is found at Exhibit 3 (SDKD-LACSC-0000000001\_0066).  
14

15 29. Based on the representations noted above in paragraphs 27 & 28, Participant 11  
16 entered into a “Custom Bot Trade Agreement” with Saffron and Recruiter 2, whereby Participant  
17 11 would send 1,000 BTC from his BTC address to a BTC address controlled by Saffron,  
18 19VaycFRP8Xsm7jTYGvX6VvPA1VRey6F9QB, on or before June 6, 2018 for the purpose of  
19 trading on the participant’s behalf using Saffron’s “A.I. Bot Trade Program.” *See* Superior Court  
20 of the State of California, County of Los Angeles records for Case No. BC723555, a copy of  
21 which is found at Exhibit 3 (SDKD-LACSC-0000000001\_0066-67; SDKD-LACSC-  
22 0000000001\_0078-79). In exchange, Saffron represented he would provide Participant 11 a  
23 100% return over the course of four weeks. In addition, Saffron represented that 20% of the  
24 participant’s 1,000 BTC investment (approximately 200 BTC) would be paid to Recruiter 2 as a  
25  
26  
27  
28

referral fee for his services with the transaction. *See Superior Court of the State of California, County of Los Angeles records for Case No. BC723555, a copy of which is found at Exhibit 3 (SDKD-LACSC-0000000001\_0066-67; SDKD-LACSC-0000000001\_0078-79).*

30. On or about June 6, 2018, a friend and business associate of Participant 11, “Participant 12”, sent 500 BTC from his BTC address to Participant 11’s BTC address for the purpose of investing with Saffron. Shortly thereafter, Participant 11 sent 1,000 BTC (500 BTC of his own plus 500 BTC he received from Participant 12) to Saffron from his BTC address to a BTC address controlled by Saffron, 19VaycFRP8Xsm7jTYGvX6VvPA1VRey6F9QB. At the time of this investment, 1,000 BTC was worth approximately \$8 million. *See Superior Court of the State of California, County of Los Angeles records for Case No. BC723555, a copy of which is found at Exhibit 3 (SDKD-LACSC-0000000001\_0066-67; SDKD-LACSC-0000000001\_0078-79).*

31. Between June 2018 and August 2018, Participants 11 & 12 made repeated demands on Saffron for the return of their funds; however, they were unable to obtain any of their funds.

32. On or about August 29, 2018, Participants 11 & 12 entered into a “Settlement and Non-Disparagement Agreement” with Saffron whereby Saffron agreed to deliver a total of 1,250 BTC to a virtual currency wallet address controlled by Participant 11, 15P9G1RYG72SWnQyX8Ux8bPC1LQYMDg5HU. The payment was to be executed in two installments: 625 BTC sent on or before September 7, 2018, and 625 BTC sent on or before September 14, 2018. *See Superior Court of the State of California, County of Los Angeles records for Case No. BC723555, a copy of which is found at Exhibit 3 (SDKD-LACSC-0000000001\_0067; SDKD-LACSC-0000000001\_0081-84).* Contrary to the August 2018

1 Settlement and Non-Disparagement Agreement, Participants 11 & 12 received no payment from  
2 Saffron and have yet to receive any return of their funds from Saffron.

3 **Bot Investment Trading Program**

4 33. Based upon my review of the documents listed above in Section II, I determined  
5 the following.

6 34. During the period January 2, 2018 through approximately January 6, 2018,  
7 a group of eight participants sent Saffron a total of 206.5 BTC (worth approximately \$3.1 million  
8 at the time) to a BTC address controlled by Saffron for the purpose of trading on the participants'  
9 behalf using Saffron's "A.I. Bot Trade Program." *See letter from MLF to Kagel and Saffron*  
10 dated February 5, 2018, a copy of which is found at Exhibit 4 (SDKD-Murrin-0000000011).

12 35. The eight participants noted above in paragraph 34 were solicited to invest in  
13 Saffron's "Bot Investment Trading Program" by either word-of-mouth from existing Saffron  
14 participants, online webinar presentations made by Saffron, and/or in-person presentations made  
15 by Saffron.

17 36. In a January 2018 video recording of Saffron's presentation to actual and  
18 prospective participants, Saffron performed a hypothetical trading demonstration on a laptop  
19 computer using a "BinBot Pro" trading platform and stated, "The more bots I have running, the  
20 more money it is for the bank. Literally, it's like printing money. Every thirty seconds, you're  
21 making on average anywhere between 1 and 400 fiat [currency], or you're making 1 and 400  
22 Bitcoin."

24 37. Contrary to Saffron's representation noted above in paragraph 36, the "bots" he  
25 used during his hypothetical demonstration were not in fact his bots, but bots offered and  
26 provided by BinBot Pro which is a third-party software provider with no affiliation to Saffron or

1 Circle Society. *See* documents and information obtained from the BinBot Pro website, a copy of  
2 which is found at Exhibit 12 (SDKD-CFTC-WEB-0000000005). Moreover, the Commission  
3 conducted testimony under oath of one participant (Participant 7) who represented that Saffron  
4 was simply using BinBot Pro to demonstrate how a bot could be used to trade binary options  
5 contracts on forex and cryptocurrency pairs. Further, Participant 7 represented that Saffron  
6 wanted him to edit the January 2018 video by removing any reference to “BinBot Pro” in order  
7 to persuade more participants to give their funds to Saffron and make it appear as if the bot  
8 software being shown was actually developed by Saffron himself. *See* CFTC Transcript of  
9 Participant 7’s Testimony Under Oath, March 1, 2019, at p. 129, line 19 – p. 132, line 9, a copy  
10 of which is found at Exhibit 13.

12       38.     Similarly, in a January 2018 audio recording of another presentation to actual and  
13 prospective participants, Saffron stated the following:

- 14       a.    “The System basically is any money you put in, within seven calendar days—  
15              seven days from when you put it in—you get your outlay back. So whatever you  
16              put in, you get your outlay back, fourteen days after that you get two-to-one on  
17              your money. Okay, so you’re getting three-to-one on whatever position you have;  
18              it can go from one Bitcoin all the way to 10,000 Bitcoin, whatever it is. And I  
19              deal with all ranges.”
- 21       b.    “My personal portfolio as you’ve seen has over \$717 million . . . company  
22              portfolio is about \$2 billion. My liquid outlay per day is anywhere between \$2  
23              million and \$5 million . . . I know who to call, and I just know how to do things,  
24              but I don’t know this town yet because I’m integrated in Los Angeles. So you  
25              guys know this town. Perfect. Now I can make you all damn rich.”

1           c. “Test the System out at first; I’ll give you a three-day outlay return, just to show  
 2           you it works. So three days, you’ll have your full return, outlay and two-to-one.  
 3           Any money you give me, half a Bitcoin, \$1,000, \$2,000, \$500 whatever you have  
 4           I will triple it in three days and hand it back to you. Then, you can go to your  
 5           people and go, ‘this works.’ Any person you bring to me, I’ll give you one-to-one  
 6           on whatever they put in. So you bring someone who has three Bitcoin, he puts  
 7           three Bitcoin in, fourteen days and then seven-day outlay return, and then another  
 8           fourteen days, seven days on that outlay return, he gets his money, you get yours.  
 9           Okay? Very simple.”

10  
 11          d. [Question by Prospective Participant]: “How . . . you’re probably overwhelmed  
 12           with people bringing you clients at this point? [Saffron’s Answer]: Yes, I am. I  
 13           don’t want a client list from you. You’re going to deal with the clients, okay. A  
 14           client comes to you and goes, ‘how the f\*\*k do I get in this?’ I want fifty  
 15           Bitcoins to go to this guy. Okay. You go, ‘I’ve got Jim who is putting in fifty  
 16           Bitcoins.’ I set up a wallet for Jim, send you a wallet address. He can check it on  
 17           the computer its zero transactions. It’s his personal wallet. He puts in the fifty  
 18           Bitcoin. I send you a contract back, it says fifty Bitcoin received 12:04 pm. Fifty  
 19           Bitcoin would be deposited back into wallet address on Friday, whatever date and  
 20           fifty Bitcoin will be given to you as your commission. It’s one-to-one. So  
 21           understand the concept of that, okay that’s money, millions within a month.”

22  
 23          39. On or around the time that the eight participants noted above in paragraph 34 sent  
 24           BTC to Saffron, they received a letter from Saffron’s legal counsel at the time, Kagel, which  
 25           stated in pertinent part:

1 We understand that you will be depositing bitcoin and other forms of  
 2 cryptocurrency with Mr. Saffron which he will be investing on your behalf. He  
 3 has agreed to return your investment to you together with a profit. In order to  
 4 assure that your deposit will be returned in the event Mr. Saffron is unable or  
 5 unwilling to do so he has deposited at least one thousand bitcoin in a wallet to  
 6 which he has given us access. He has agreed to at all times maintain the deposit  
 7 in the wallet and give this firm unrestricted access to it. If you have not received  
 8 the return of your deposit from Mr. Saffron following ten business days' notice to  
 9 him with a copy to us, upon five business days' notice to us we will return your  
 10 deposit from the aforementioned wallet.

11 See Exemplar letter from Kagel to Participant 4, a copy of which is found at Exhibit 4 (SDKD-  
 12 Murrin-00000000051 P.0004).

13 40. Contrary to the representations made in the letters that participants received from  
 14 Kagel, there were no precautions taken by Kagel to ensure the safekeeping of participants' BTC  
 15 they provided to Saffron. For example, Kagel represented the following to the Commission  
 16 during his testimony under oath:

17 a. Kagel believed he had access to the wallet referenced in his letters to participants  
 18 based on Saffron simply showing him a computer screen which revealed what appeared to be a  
 19 wallet that "said 1,000 bitcoins, BTC, or – I don't remember exactly." See CFTC Transcript of  
 20 Kagel's Testimony Under Oath, February 28, 2019, at p. 50, line 16 – p. 51, line 5, a copy of  
 21 which is found at Exhibit 14; and

22 b. Saffron provided Kagel a login and/or password to the alleged wallet; however,  
 23 Kagel never tried to access the wallet during the relevant period with the credentials provided by  
 24 Saffron. See CFTC Transcript of Kagel's Testimony Under Oath, February 28, 2019, at p. 51,  
 25 lines 6 – 10, a copy of which is found at Exhibit 14.

26 41. In February 2018, the eight participants noted above in paragraph 34 retained  
 27 MLF in an attempt to obtain their promised returns and/or profits from the BTC they invested  
 28 with Saffron.

1       42. On February 5, 2018, MLF sent a letter to Saffron and Kagel requesting that they  
2 return all BTC deposits and promised returns to Participants 1-8. *See* February 5, 2018 letter  
3 from MLF to Kagel and Saffron, a copy of which is found at Exhibit 4 (SDKD-Murrin-  
4 0000000011).

5       43. On February 12, 2018, Kagel sent a letter to MLF which stated in pertinent part:

6              On January 23, 2018 Mr. Saffron was brutally beaten and robbed of his computer  
7 at his apartment. His life was threatened by his assailants in an attempt to obtain  
8 access to his bitcoin wallets, including the wallet held for the benefit of your  
9 clients. In order to secure the contents of the wallets, and at the risk of his life,  
10 Mr. Saffron disabled access to them by anyone other than himself, including the  
11 undersigned.

12              When his assailants left Mr. Saffron called the Los Angeles police. After taking a  
13 report he was arrested on an outstanding warrant from the State of Georgia on a  
14 relatively minor matter, not involving bitcoin, which he believed had been  
15 resolved.

16              Following his release I believe that Mr. Saffron will contact all of his investors,  
17 including your clients, and return their deposits or otherwise make arrangements  
18 satisfactory to them.

19       *See* February 12, 2018 letter from Kagel to MLF, a copy of which is found at Exhibit 4 (SDKD-  
20 Murrin-0000000047).

21       44. On February 15, 2018, MLF sent another letter to Saffron and Kagel requesting  
22 that they return all BTC deposits and promised returns to Participants 1-8. *See* February 15,  
23 2018 letter from MLF to Kagel and Saffron, a copy of which is found at Exhibit 4 (SDKD-  
24 Murrin-0000000051).

25       45. Further, on March 2, 2018, MLF sent a letter to the State Bar of California  
26 concerning their clients BTC investments, and Saffron's failure to return the BTC deposits and  
27 promised returns to Participants 1-8 after repeated requests made to Kagel and Saffron. *See*  
28 March 2, 2018 letter from MLF to State Bar of California, a copy of which is found at Exhibit 4

1 (SDKD-Murrin-0000000024).

2 46. Of the 206.5 BTC Saffron solicited and accepted for his Bot Investment Trading  
 3 Program, he returned a total of 130 BTC to two of the eight participants (Participants 4 & 7) in  
 4 the nature of a “Ponzi” scheme. Moreover, Participant 7 claimed that he immediately sent back  
 5 the 30 BTC he received to a BTC address controlled by Saffron. *See* CFTC Transcript of  
 6 Participant 7’s Testimony Under Oath, March 1, 2019, at p. 59, lines 2 - 19, a copy of which is  
 7 found at Exhibit 13, text messaged between Participant 7 and Saffron, copies of which are found  
 8 at Exhibit 4 (SDKD-Murrin-0000000402; SDKD-Murrin-0000000488), and materials produced  
 9 by Participant 4, copies of which are found at Exhibits 18 (SDKD-Hitesh-0000000001; SDKD-  
 10 Hitesh-0000000003).

12 47. Contrary to Saffron’s repeated promises, Participants 1-8 received no payment  
 13 from Saffron and have yet to receive any return of their funds from Saffron, other than the 130  
 14 BTC returned to Participants 4 & 7 referenced above in paragraph 46.

15           **Omicron Trust**

16 48. Based upon my review of records produced to the Commission by Kerr and  
 17 Kagel, I determined the following.

19 49. Sometime in May 2018, Kerr and two of his clients (“Clients 1 & 2”) met with  
 20 Saffron in Kerr’s office located in Henderson, Nevada, during which Saffron made the following  
 21 representations:

22           a. He was a genius when it came to mathematics and computer programming and he  
 23 had created some algorithms he referred to as “bots.” *See* CFTC Transcript of Kerr’s Testimony  
 24 Under Oath, March 27, 2019, at p. 59, lines 2-8, a copy of which is found at Exhibit 15;

26           b. The bots he created would automatically generate trades on various virtual

1 currency exchanges, which allowed him to take BTC and “multiply it exceedingly quickly.” *See*  
 2 CFTC Transcript of Kerr’s Testimony Under Oath, March 27, 2019, at p. 59, lines 11-16, a copy  
 3 of which is found at Exhibit 15; and

4       c. He provided a “referral fee” to actual and prospective participants, equal to 20%  
 5 of any assets that the participants’ friends and/or acquaintances deposited with Saffron. *See*  
 6 CFTC Transcript of Kerr’s Testimony Under Oath, March 27, 2019, at p. 64, lines 10-25, a copy  
 7 of which is found at Exhibit 15.

8       50. During the meeting noted above in paragraph 50, Saffron also showed Kerr the  
 9 website for Omicron, <http://theomicrontrust.com>,<sup>21</sup> which is where actual and prospective  
 10 participants would register for one of the Omicron investment plans. For example, there was a  
 11 “30-day” program that allegedly would “double your money,” and a “45-day” program that  
 12 allegedly offered three-to-one returns. *See* CFTC Transcript of Kerr’s Testimony Under Oath,  
 13 March 27, 2019, at p. 63, line 18 – p. 64, line 1; p. 65, lines 16-21, a copy of which is found at  
 14 Exhibit 15.

15       51. Subsequent to the May 2018 meeting referenced above in paragraph 50, Clients  
 16 1 & 2 requested that Kerr conduct additional due diligence on their behalf regarding Saffron’s  
 17 Omicron Trust program in order to “give them comfort” before they invested any funds with  
 18 Saffron. *See* CFTC Transcript of Kerr’s Testimony Under Oath, March 27, 2019, at p. 147, lines  
 19 14-20, a copy of which is found at Exhibit 15.

20       52. On or about June 15, 2018, Kerr met with Saffron at his hotel suite in Las Vegas,  
 21 Nevada and represented that the following took place during the meeting:

---

22       <sup>21</sup> Based upon my review, the Omicron website was registered with Shinjiru MSC Sdn Bhd, a web-hosting  
 23 company based in Malaysia, on or about May 15, 2018, and is no longer active as of March 8, 2019. *See*  
 24 documents and information obtained from the Omicron website, copies of which are found at Exhibit 12 (SDKD-  
 25 CFTC-WEB-0000000022\_0003-5).

1           a. Saffron utilized his personal laptop computer to show Kerr various Excel  
 2 spreadsheets that revealed the historical trading activity and return on investment (“ROI”) for  
 3 certain clients of Saffron;

4           b. Saffron showed Kerr a demo trading history report for a four hour time block; and  
 5           c. Kerr engaged in a 26-minute test trade of BTC using Saffron’s trading algorithm,  
 6 referred to by Saffron as “bots.” *See CFTC Transcript of Kerr’s Testimony Under Oath, March*  
 7 *27, 2019, at p. 151, line 1 – p. 154, line 4, a copy of which is found at Exhibit 15.*

8           53. Based on Kerr’s June 15, 2018 meeting with Saffron, he prepared an opinion  
 9 letter for Clients 1 & 2 which rendered opinions including, but not limited to, the following:

10           a. Kerr assumed that Saffron “has been engaged in the crypto-currency industry for  
 11 many years”;

12           b. Kerr “independently verified [Saffron’s] programming credentials”;

13           c. Saffron had historical trades that revealed a ROI for clients of a minimum of two  
 14 times the investment, although there were certain client trades that revealed a ROI that was  
 15 “substantially higher” than two times the investment;

16           d. Saffron’s bots traded “fiat/BTC pairs, FOREX pairs and other crypto-currency  
 17 pairs” across 16 different virtual currency exchanges “(i.e., Gemini, GDAX)”;

18           e. The June 15, 2018 trading demo, which occurred between 2:00 a.m. – 6:00 a.m.,  
 19 “started with fiat \$1,000 USD and concluded the four (4) hour block with \$54,900 USD”; and

20           f. Saffron’s trading algorithm “generated two (2) times the investment in BTC over  
 21 a 26 minute test period.” *See June 15, 2018 letter from Kerr, a copy of which is found at Exhibit*  
 22 *6 (SDKD-Kagel-0000000001).*

23           54. Moreover, Kerr executed his own personal “test” trade with Saffron on June 15,

1 2018, by transferring 0.2 BTC from his personal Coinbase account to a BTC address controlled  
2 by Saffron, who then allegedly “inserted the BTC into the trading algorithm and timed the  
3 trading for 26 minutes.” In fact, Kerr represented that he opened the Coinbase application  
4 (“app”) on his personal cell phone and handed his phone to Saffron who then executed the 0.2  
5 BTC transfer for him. At the end of the 26-minute “test period”, Saffron transferred 0.4 BTC  
6 from a BTC address that he controlled to Kerr’s Coinbase account. *See CFTC Transcript of*  
7 *Kerr’s Testimony Under Oath, March 27, 2019, at p. 50, lines 9-23; p. 115, lines 6-19; p. 201,*  
8 *lines 12-25 , a copy of which is found at Exhibit 15; Exhibit 6 (SDKD-Kagel-0000000001*  
9 *P.0002), Kerr’s Coinbase account documents, a copy of which is found at Exhibit 11 (SDKD-*  
10 *Coinbase-0000000001\_0003), and a screenshot from Kerr’s Coinbase app taken on June 15,*  
11 *2018, a copy of which is found at Exhibit 5 (SDKD-Kerr-0000000003).*

13 55. On or about July 9, 2018, Kerr and another one of his clients (“Client 3”) had a  
14 breakfast meeting with Saffron during which Saffron explained his Omicron trading program to  
15 Client 3, as well as the referral fees that Saffron offered to his participants. *See CFTC Transcript*  
16 *of Kerr’s Testimony Under Oath, March 27, 2019, at p. 83, lines 3-19, a copy of which is found*  
17 *at Exhibit 15.*

19 56. Based on the July 9, 2018 meeting noted above in paragraph 55, Client 3 decided  
20 to invest in Saffron’s Omicron trading program and on or about July 9, 2018, transferred 50 BTC  
21 (worth approximately \$333,000 at the time) from his virtual currency account to Kerr’s Coinbase  
22 account. On July 10, 2018, Kerr sent the 50 BTC he received from Client 3 to a BTC address  
23 controlled by Saffron, and on the same day Saffron sent 10 BTC back to Kerr from a BTC  
24 address he controlled to Kerr’s Coinbase account as Kerr’s “commission for [Client 3’s]  
25 investment.” *See CFTC Transcript of Kerr’s Testimony Under Oath, March 27, 2019, at p. 80,*  
26 *27*  
28

1 line 16 – p. 81, line 11, a copy of which is found at Exhibit 15, and Kerr’s Coinbase account  
 2 documents, a copy of which is found at Exhibit 11 (SDKD-Coinbase-0000000001\_0003).

3 57. Client 3 received no payment from Saffron and has yet to receive any return of  
 4 his funds from Saffron. *See CFTC Transcript of Kerr’s Testimony Under Oath, March 27, 2019,*  
 5 at p. 121, lines 12-17, a copy of which is found at Exhibit 15.

6 58. On July 11, 2018, Kerr returned his “commission” of 10 BTC that he received  
 7 from Saffron, noted above in paragraph 56, plus 1.4 BTC of his own by sending a total of 11.4  
 8 BTC from his Coinbase account to a BTC wallet address controlled by Saffron. *See CFTC*  
 9 *Transcript of Kerr’s Testimony Under Oath, March 27, 2019, at p. 81, lines 9-25, a copy of*  
 10 *which is found at Exhibit 15, and Kerr’s Coinbase account documents, a copy of which is found*  
 11 *at Exhibit 11 (SDKD-Coinbase-0000000001\_0003).*

13 **Circle Society**

14 59. Based upon my review of the documents listed above in Section II, I determined  
 15 the following.

17 60. Sometime in August 2018 Saffron rebranded Omicron Trust and changed the  
 18 name of his cryptocurrency investment program to Circle Society.

19 61. The Circle Society website, <https://circlesociety.com>, was registered with  
 20 GoDaddy.com on or about May 9, 2011. *See documents and information obtained from the*  
 21 *Circle Society website, copies of which are found at Exhibit 12 (SDKD-CFTC-WEB-*  
 22 *0000000018). As of June 14, 2019, the website had the following message posted:*

24 “We are currently closed for maintenance. In order to maintain members growth during  
 25 Site maintenance All accounts will be given the “Transition Rollover” and final balances  
 26 will be adjusted accordingly.” *See documents and information obtained from the Circle*

Society website, a copy of which is found at Exhibit 12 (SDKD-CFTC-WEB-0000000018).

62. Further, as of August 27, 2019, the Circle Society website represented in pertinent part: “**Site Update**” and “Circle Society’s site is currently in maintenance.” *See Exhibit 12 (SDKD-CFTC-Web-000000019 0001).*

63. In September 2018, Saffron asked Kerr to help him establish Circle Society, and on September 5, 2018, Saffron sent approximately 0.2 BTC (worth approximately \$1,999.00 at the time) from a BTC address he controlled to Kerr's Coinbase account. This transaction represented the fee that Kerr charged Saffron for helping him set up Circle Society. *See* CFTC Transcript of Kerr's Testimony Under Oath, March 27, 2019, at p. 48, line 25 – p. 49, line 7, a copy of which is found at Exhibit 15, and Kerr's Coinbase account documents, a copy of which is found at Exhibit 11 (SDKD-Coinbase-0000000001 0002).

64. On September 6, 2018, Circle Society was incorporated and registered with the state of Nevada, with Kerr listed as the registered agent and Saffron listed as the sole owner and officer of the company.

65. During the relevant period, the Circle Society website (<https://circlesociety.com>) made representations including, but not limited to, the following:

a. "Circle Society is an automated crypto-currency trading system that gives fixed returns over time using leveraged high-frequency algorithmic trading via statistical arbitrage."

b. “CS uses long and short positions to multiply potential gains, while minimizing losses.”

c. “CS detects and exploits trends in pair trading opportunities.”

1           d. Circle Society “is a registered Money Service Business with FinCEN and is a  
2 licensed money transmitter in numerous states.” This representation is false as a search on the  
3 Financial Crimes Enforcement Network (“FinCEN”) website ([https://www.fincen.gov/msb-](https://www.fincen.gov/msb-registrant-search)  
4 registrant-search) for Money Service Businesses (“MSBs”) revealed no matches for Circle  
5 Society. *See Exhibit 23 (SDKD-Welker-0000000076.0008).*

6           e. Circle Society “enables you to use your cryptocurrency with others to facilitate a  
7 profitable venture using cryptocurrency as payment for goods or services, and process  
8 cryptocurrency payments that we receive from the Purchaser. We are not a crypto exchange,  
9 wallet, or a place to purchase or sell cryptocurrencies. Our Services are only available to  
10 individuals that purchase a plan or service.” *See Exhibit 23 (SDKD-Welker-0000000076.0018).*

12           f. Circle Society “is a private club.” *See Exhibit 23 (SDKD-Welker-0000000076.0019).*

14           66. Through the Circle Society website, Saffron offered and continues to offer  
15 participants various investment plans. The plans vary by amount required to be invested and  
16 guarantee rates of return within a specified time period such as the following:  
17

- 18           a. Weekly BTC – provides “Returns 149%” in “7 Consecutive Days;”
- 19           b. Daily – provides “Returns 5.00%” in “30 Consecutive Days;”
- 20           c. Year of the Pig – provides “Returns 188%” in “38 Consecutive Days;”
- 21           d. No commission plan – provides “Returns 200%” in “22 Business Days;” and
- 22           e. The Power of 3 – provides “Returns 300%” in “45 business days.”

24           *See Exhibit 23 (SDKD-Welker-0000000070.0001 and SDKD-Welker-0000001147).*

25           67. Through the Circle Society website, participants can transfer their BTC to  
26  
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1 Circle Society from the participants' own cryptocurrency addresses and view their purported  
2 account balance (denominated in BTC) with Circle Society.

3 68. The Commission conducted telephone interviews of Participants 13 & 14, and  
4 determined the following.

5 Participant 13

6 a. Participant 13 became aware of Circle Society in early 2018 and understood that  
7 Saffron had a "super trading algorithm" for trading cryptocurrency and was offering an  
8 investment opportunity through the deposit of BTC. This participant also represented that:

- 9 i. Saffron was buying and selling options on cryptocurrencies, mostly BTC  
10 but also Etherium ("ETH") and Litecoin ("LTH"), on multiple virtual  
11 currency exchanges all over the world; and  
12 ii. Saffron offered a referral program whereby he promised to pay  
13 participants a commission equal to 10% of the total amount of BTC any  
14 new participant made.

15 b. In February 2019, Participant 13 decided to invest in Circle Society's "daily plan"  
16 that was offered on the company's website and "promised daily returns of 5% per day for 30  
17 days." Specifically, on February 20, 2019, the participant transferred one (1) BTC from his  
18 Coinbase account to a BTC address he obtained from the Circle Society website.

19 c. Over the course of 20 days after his initial February 2019 investment, Participant  
20 13 represented that he received daily returns totaling one (1) BTC, which he then then reinvested  
21 back into Circle Society by transferring a total of one (1) BTC on March 10 & 11, 2019 to a BTC  
22 address he obtained from the Circle Society website.

23 d. On or about March 21, 2019, Participant 13 made an additional deposit into his  
24  
25

1 Circle Society daily plan as he transferred six (6) BTC from his Coinbase account to a BTC  
2 address he obtained from the Circle Society website.

3 e. On or about March 27, 2019, Participant 13 met an individual named Justin  
4 Baraglia (“Baraglia”) during which he learned the following:

- 5 i. Baraglia was part of a group of investors who allegedly provided  
6 approximately \$8 million worth of BTC to Saffron; and  
7 ii. Baraglia was very “heated” about Saffron not returning any of his BTC  
8 deposit and/or profits.  
9

10 f. Participant 13 has received no further payments or any return of his funds from  
11 Saffron to date, other than the return of one (1) BTC noted above in paragraph 68c. *See*  
12 Declaration of Participant 13, attached hereto as Exhibit 25 (SDKD-Marshall-0000000004).

13 Participant 14

14 g. Participant 14 became aware of Circle Society in October 2018 and understood  
15 that the company was offering an investment opportunity through the deposit of BTC.  
16

17 h. In April 2019, Participant 14 learned that Saffron was the sole principal of Circle  
18 Society from messages posted on Telegram.

19 i. On or around April 15, 2019, Participant 14 decided to invest in Circle Society’s  
20 “daily plan” and transferred 37 Ethereum (“ETH”), which at the time was worth approximately  
21 0.55 BTC or \$5,500 USD, from his electronic ETH address to an ETH address he obtained from  
22 the Circle Society website that he believed was controlled by Saffron.  
23

24 j. Approximately five business days after Participant 14’s April 2019 investment, he  
25 received returns from Circle Society totaling approximately 15 ETH, which at the time was  
26 worth approximately 0.55 BTC, which were sent from Circle Society’s ETH address to  
27  
28

1 Participant 14's ETH address. The Participant then rolled his return of 0.55 BTC back into  
 2 Circle Society's "weekly plan."

3 k. On or around May 24, 2019, Participant 14 logged into the Circle Society website  
 4 to view his purported account which showed his original investment of 0.55 BTC and a "Balance  
 5 Due" of 2.3600 BTC.

6 1. Participant 14 has received no further payments or any return of his funds from  
 7 Saffron to date, other than the return of 0.55 BTC noted above in paragraph 68j, which he  
 8 reinvested into a new Circle Society investment plan. *See Declaration of Participant 14, attached*  
 9 *hereto as Exhibit 26 (SDKD-Welker-0000001625).*

11                         V.        SUMMARY

12         69. In summary, during the relevant period, Saffron, individually and on behalf of  
 13 Circle Society, solicited at least \$11 million worth of funds from at least 14 participants for the  
 14 purpose of participating in a commodity pool that purportedly traded binary options contracts on  
 15 forex and cryptocurrency pairs, among other things. During this time, a total of at least \$11  
 16 million in participant funds were deposited into various virtual currency addresses controlled by  
 17 Saffron and/or Circle Society.

19         Of the at least \$11 million solicited for trading, Saffron did not open any U.S. futures  
 20 trading accounts in his name, nor the name of Circle Society, and did not conduct any trading  
 21 on behalf of the participants he solicited as promised. Instead, Saffron misappropriated all of  
 22 the at least \$11 million he obtained from participants by failing to put the assets into a  
 23 separate pooled account, retaining participants' funds in his own personal virtual currency  
 24 addresses, and by providing a total of 130 BTC to initial participants using the BTC of later  
 25 participants, in the nature of a "Ponzi" scheme.

1 Saffron misrepresented and continues to mispresent material facts in his solicitations and  
 2 other communications with actual and prospective participants, including by misrepresenting that  
 3 participants' funds were being held at virtual currency exchange KuCoin, and would be returned  
 4 back to participants once Saffron received a very large "balloon payment" from KuCoin.

5 Contrary to Saffron's claim concerning the "balloon payment" he has been promising  
 6 participants he would be receiving, his KuCoin account in fact is worthless with a current  
 7 balance of 0.0065 ETN, which as of August 30, 2019 was worth \$0.00 USD.<sup>22</sup> Further, Saffron  
 8 made and continues to make false statements to participants about the alleged "balloon payment"  
 9 including, but not limited to: a) He has had "6 interviews with government offices," and "So far  
 10 and they seem to be satisfied with the evidence of exchanges holding funds"; and b) "George  
 11 Malik [sic] at CFTC has it," "And FBI has it as of last week," "They both seem to be satisfied,"  
 12 "Since I'm still here and not arrested,", and "So again the stuff is being held."

13 Lastly, the majority of participants have been unable to obtain a return of any of their  
 14 funds even after repeated demands on Saffron. Instead, Saffron continues to offer new  
 15 investment plans to active and prospective participants' including, but not limited to, the  
 16 following:

- 17 a. "Coin Funding Trading Commune" or "The CFTC plan"— provides a 100% return  
     in "18 business days;"
- 18 b. "The Dream Warriors Club" – 0.1 BTC to participate, "3 New Plans offered,"  
     "30-60-90 Days," and "variable % per plan;" and
- 19 c. "Macs TixE" plan – provides a 30% return in "just 12 days."

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 22 <sup>22</sup> This amount was derived by taking the closing price of ETN on 8/30/2019 (0.003584) multiplied by 0.0065  
 23 ETN [0.003584 \* 0.0065 = \$0.00].

1 I declare under penalty of perjury under the laws of the United States of America  
2 that the foregoing is true and correct.

3  
4  
5   
6

George H. Malas

7 CFTC Futures Trading Investigator  
8

9  
10 Executed in Washington, D.C. on September 26, 2019.  
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